

Widener University Delaware Law School

From the Selected Works of Kenneth T Kristl

Fall 2005

Clinic Provides Environmental Defense, Legal Training

Kenneth T Kristl



Available at: https://works.bepress.com/kenneth_kristl/9/

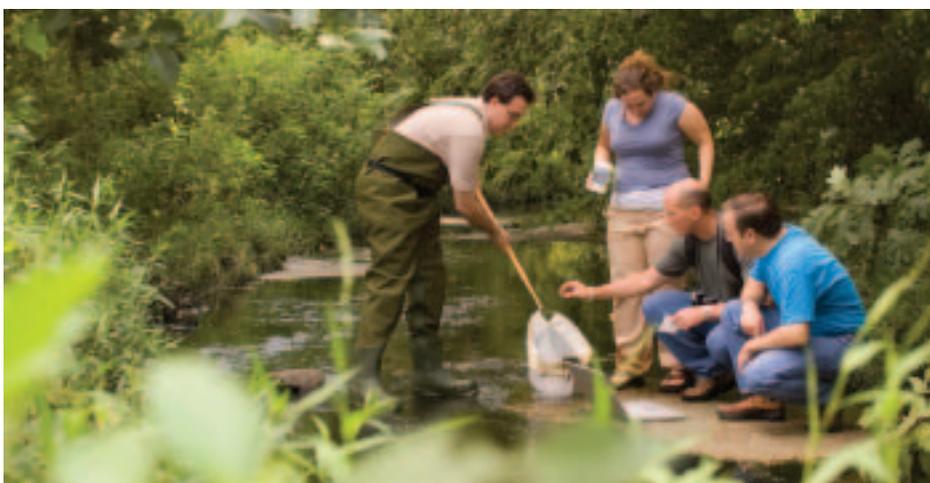
Clinic Provides Environmental Defense, Legal Training

By *Kenneth Kristl*

Small things can have big consequences. Take the Florida scrub jay, a foot-long, blue-and-white bird that has seen its population decline severely as rampant human development has decimated its habitat, Florida's oak scrub. To save the population from further decline, the Turtle Coast Sierra Club and the Florida Native Plant Society filed a petition with U.S. Fish and Wildlife Service to change the bird's designation from a threatened to an endangered species. Despite a mandated 90-day response period, U.S. Fish and Wildlife Service did not respond for more than two years. Helped by Widener's Environmental and Natural Resources Law Clinic, the petitioners filed suit, and for the Florida scrub jay, the result is hope—a court order requires the agency to review the petition, with a decision due this coming January. For clinic students working on this case, the outcome was an invaluable experience practicing law.

With its partner, the Mid-Atlantic Environmental Law Center (MAELC), the Environmental and Natural Resources Law Clinic provides hands-on learning for Widener law students while defending the environment from Maine to Puerto Rico. Now in its 17th year of operation, the clinic's focus is first and foremost on the students. Working on actual cases, clinic students practice the very legal skills they will use after they graduate—conducting factual investigations; drafting legal notices, complaints, discovery, and motions; interacting with clients, and formulating case strategy.

Clinic students consistently describe their year-long internship as one of the best experiences they had in law school. "It made me really enthusiastic



Left to right, students Jason Marmon and Carrie Smith work on clean water issues for the environmental law clinic with professors James May and Ken Kristl.

about the law," said Jennifer Murphy '02, who—as a staff attorney for MAELC—has continued her involvement with the clinic. It really solidified my choice to become a lawyer."

The clinic and MAELC jointly handle cases that fall under a variety of environmental statutes, the Clean Air Act, Clean Water Act, the Endangered Species Act, the National Environmental Policy Act, and state environmental laws. Some of these cases present the students and supervising attorneys with intellectually challenging issues that are so new or unique that they work on a blank slate, formulating arguments that have never been made before. For example, when BP sought permission under Delaware's Coastal Zone Act to build a liquefied natural gas terminal on the New Jersey shore of the Delaware River—which is considered part of the state of Delaware—little direct precedent existed. Undaunted, clinic students helped formulate a successful argument to bar the facility by applying recognized principles of statutory construction to the act, thereby placing the terminal squarely within the act's prohibitions.

The clinic also works to educate the public. Under Murphy's direction,

clinic students helped develop a MAELC educational program on Total Maximum Daily Loads (TMDLs), government-issued limits on the amount of a particular pollutant in a specific water body, and helped present it to more than 20 local groups. The program is to educate groups so they can interpret and comment on TMDLs and get involved in the process of creating and adjusting them.

Like Murphy, other former clinic students remained connected to the clinic long after graduation. Along with Wendy Leary '98, Albert Greto '97 serves on the MAELC Board. He provided vital support in the clinic's appeal of a state permit to dredge Delaware's Assawoman Canal to make it accessible for power boats. With the help of alumni and the enthusiastic involvement of Widener students, the clinic and MAELC will be forces for environmental good for a long time to come. **W**

Associate Professor Kenneth T. Kristl is the director of the Environmental and Natural Resources Law Clinic. He also serves on the board of directors of the Mid-Atlantic Environmental Law Center.